

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition No.: 29-013-17-1-5-01064-18
Petitioner: Corey Griffin¹
Respondent: Hamilton County Assessor
Parcel No.: 29-06-27-010-002.000-013
Assessment Year: 2017

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner initiated his appeal with the Hamilton County Auditor on July 23, 2018. On September 6, 2018, the Hamilton County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner relief.
2. The Petitioner timely filed a Petition for Review of Assessment (Form 131) on September 24, 2018, with the Board and elected the Board's small claims procedures.
3. On December 19, 2018, the Board's administrative law judge (ALJ) Dalene McMillen held a hearing. Neither the Board nor the ALJ inspected the property.
4. Corey Griffin appeared *pro se*. Attorney Marilyn Meighen appeared for the Respondent. Hamilton County Auditor's office employee Sadie Eldridge was sworn as a witness for the Respondent.²

Hearing Facts and Other Matters of Record

5. The property under appeal is a single-family home located at 5906 Crosscut Lane in Noblesville.
6. The official record for this matter is made up of the following:
 - a. A digital recording of the hearing,
 - b. Exhibits:

¹ According to the Form 115 and Form 130, the property is titled in the name of Jennifer Griffin and Corey R. Griffin, husband and wife.

² County Assessor Robin Ward and Lisa Johnson were present but not sworn to testify.

- Petitioner Exhibit 1: 2017 Form W-2 Wage and Tax Statements, Form 1099-R, Mortgage Interest Statement, and Honda – U.S. Domestic Relocation Tax Information Form (**marked confidential**),
- Petitioner Exhibit 2: Indiana Certificate of Title for a Vehicle issued July 26, 2017,
- Petitioner Exhibit 3: Atlas Van Lines, Inc., relocation services descriptive inventory dated December 4, 2016,³
- Petitioner Exhibit 4: Four Duke Energy statements,
- Petitioner Exhibit 5: Five AT&T monthly statements,
- Petitioner Exhibit 6: Three Citizens Energy Group statements,
- Petitioner Exhibit 7: Five Noblesville Utilities statements,
- Petitioner Exhibit 8: Lowe’s Services Solutions Installed Sales Contract dated July 24, 2017,
- Petitioner Exhibit 9: Indiana Agency Voter Registration Application and Voter Registration Acknowledgment Notice for Corey Griffin dated December 14, 2016,
- Petitioner Exhibit 10: Letter and two Aetna payment summaries (**marked confidential**),
- Petitioner Exhibit 11: CHLA Medical Group statement (**marked confidential**),
- Petitioner Exhibit 12: Pacific Valley MEDGRP statement (**marked confidential**),
- Petitioner Exhibit 13: Huntington Hospital statement (**marked confidential**),
- Petitioner Exhibit 14: Mid America Clinical Labs statement (**marked confidential**),
- Petitioner Exhibit 15: “Final Report” for Jennifer Griffin from Dr. John David Carmichael (**marked confidential**),
- Petitioner Exhibit 16: Indiana University Health statement for Jennifer Griffin (**marked confidential**),
- Petitioner Exhibit 17: Paragon Relocation Resources, Inc., expense statement dated November 23, 2016,
- Petitioner Exhibit 18: Indiana University Health statement for Charlotte Griffin (**marked confidential**),
- Petitioner Exhibit 19: Busby Eye Care, LLC, statement for Corey Griffin (**marked confidential**),
- Petitioner Exhibit 20: Noblesville Square Animal Clinic statement.
- Respondent Exhibit A: Department of Local Government Finance (DLGF) memorandum “Frequently Asked Questions – Homestead Standard Deduction and Other Deductions” dated March 27, 2014, pages 1 and 9,
- Respondent Exhibit B: Indiana Code § 6-1.1-12-37(j),

³ This exhibit incorrectly lists the Petitioner’s address as 5906 Crosscut Lane in Indianapolis.

- Respondent Exhibit C: Sales disclosure form dated November 28, 2016, **(marked confidential)**,
- Respondent Exhibit D: “Property Tax Deductions – Notification” from Hamilton County Auditor to Jennifer & Corey Griffin dated February 16, 2017,
- Respondent Exhibit E: Claim for Homestead Property Tax Credits/Standard Deduction (Form HC10) dated July 31, 2018, and copies of Corey & Jennifer Griffin’s Indiana driver’s license **(marked confidential)**.

- c. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) these findings and conclusions.

Objections

7. Ms. Meighen objected to Petitioner’s Exhibit 1, W2 forms for 2017, arguing the county is unable to verify whether the amount listed “was for a day or month or year.” The ALJ overruled the objection. The objection goes to the weight of the evidence rather than its admissibility. The Board adopts the ALJ’s ruling and Petitioner’s Exhibit 1 is admitted.

Summary of the Parties’ Contentions

8. Summary of the Petitioner’s case:
- a. The Petitioner purchased the subject property in November of 2016 and has lived there since. According to Mr. Griffin, his wife was unable to move to Indiana until March of 2017. The subject property is their principal place of residence. In an effort to support this claim, the Petitioner provided copies of his W2s, vehicle title, relocation expenses and receipt, electric, internet, water, sewer, fence installation payments, voter registration, various medical bills, and a veterinary invoice. *Griffin testimony; Pet’r Ex. 1-20.*
- b. The Petitioner and his wife received a letter from the Auditor’s office “in 2017” regarding their homestead deduction. The letter requested proof of residency and copies of their Indiana driver’s license by December 31, 2017. The Petitioner testified that his realtor also informed him that there was a deadline to file proof of Indiana residency with the County Assessor in order to receive the homestead deduction. *Griffin testimony.*
- c. Mr. Griffin obtained his Indiana driver’s license on December 7, 2016. But his wife did not obtain her Indiana driver’s license until the “end of 2017.”⁴ After receiving

⁴ Mrs. Griffin was issued an Indiana driver’s license on November 18, 2017. *Resp’t Ex. E.*

her driver's license, Mr. Griffin made copies of both and mailed the copies at the Westfield post office in "late 2017." *Griffin testimony*.

9. Summary of the Respondent's case:

- a. The Petitioner's 2017 homestead deduction was denied by Hamilton County because he did not meet the residency requirement. When the Petitioner filed for the homestead deduction via the sales disclosure form, only out-of-state driver's license information was provided. *Meighen argument (citing Ind. Code § 6-1.1-12-37(j)); Eldridge testimony; Resp't Ex. B, C.*
- b. The DLGF issued a memorandum on March 27, 2014, providing county auditors' guidance on how to determine if a property is a person's principal place of residence. According to this memorandum, the auditor may ask for proof, such as, Indiana income tax returns, voter registration and valid Indiana driver's license. In the normal course of business the Hamilton County Auditor will request proof of residency if she needs to determine eligibility. *Eldridge testimony; Resp't Ex. A.*
- c. Residency verification is necessary in Hamilton County because many times the sales disclosure form incorrectly states a property is the individual's principal place of residence, when in fact it is a "second home." *Eldridge testimony.*
- d. The Auditor's office sent a "Property Tax Deduction – Notification" by certified mail to the Petitioner on February 16, 2017, requesting Indiana driver's license numbers by December 31, 2017. The Petitioner signed for the certified letter on February 27, 2017. The Auditor's office did not receive a reply to the letter. As a result, the homestead deduction was removed for the 2017 assessment year. *Eldridge testimony; Resp't Ex. D.*
- e. On July 23, 2018, the Petitioner re-filed for his homestead deduction with the proper paperwork proving he and his wife are both Indiana residents. *Eldridge testimony; Resp't Ex. E.*

Analysis⁵

10. Indiana Code § 6-1.1-12-37 provides a standard deduction from the assessed value for homesteads, which the statute defines as a dwelling that an individual owns and uses as his principal place of residence and up to one acre of surrounding land. Ind. Code § 6-1.1-12-37(a)-(c). At all times relevant to this appeal, the taxpayer had to apply for the deduction in one of two ways.⁶ First, he could file a certified statement with the county

⁵ Because the Petitioner only challenged the homestead deduction, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden rests with the Petitioner.

⁶ Once the auditor grants the deduction, it carries forward and taxpayers need not reapply. *See* Ind. Code § 6-1.1-27-37(e); Ind. Code § 6-1.1-12-17.8.

auditor on forms prescribed by the DLGF. Ind. Code § 6-1.1-12-37(e). The DLGF prescribed Form HC10 for that purpose. 50 IAC 24-4-2. A taxpayer had to complete Form HC10 within the calendar year for which the deduction was sought and file that form on or before January 5 of the immediately succeeding year. *Id.*; Ind. Code § 6-1.1-12-37(e). Alternatively, a taxpayer could use the sales disclosure form at the time of purchase to claim the deduction. *Id.*; Ind. Code § 6-1.1-12-44.

11. Here, the Petitioner applied for the homestead deduction using the sales disclosure form as allowed by 50 IAC 24-4-3 and Ind. Code § 6-1.1-12-44. The sales disclosure form was filed on November 28, 2016, with information from the Petitioner's California driver's license. There is no dispute the subject property meets the requirement to be a "homestead" as defined by Ind. Code § 6-1.1-12-37(a)(2) because it is the Petitioner's principal place of residence.
12. Sometime in 2017, the Auditor realized the Petitioner had not updated the homestead records by providing new Indiana driver's license numbers. The Auditor attempted to obtain the information by mailing out a letter February 16, 2017. The Petitioner purportedly failed to respond by the December 31, 2017, deadline.
13. Mr. Griffin was issued an Indiana driver's license on December 7, 2016. Mrs. Griffin was issued an Indiana driver's license on November 18, 2017. Mr. Griffin testified that he made copies of both and mailed them at the Westfield post office in "late 2017." The Auditor argues she never received the information. The Indiana Tax Court has held that "the sworn testimony of a witness constitutes sufficient evidence to prove timely mailing." *Indiana Sugars, Inc. v. State Board of Tax Comm'rs*, 683 N.E.2d 1383, 1387 (Ind. Tax Ct. 1997). Consequently, the Board finds the testimony of Mr. Griffin to be credible evidence that he mailed the requested information.
14. The Respondent's current position assumes the lack of an Indiana driver's license *necessarily* establishes lack of the required residency. A county auditor has the authority to determine that a homestead deduction was given in error, and then recover any taxes lost as a result of that error. *See* Ind. Code § 6-1.1-12-37(f); Ind. Code § 6-1.1-36-17. However, a taxpayer may timely appeal an auditor's action in revoking a homestead. The Respondent has not challenged the timeliness of this appeal. It is the taxpayer's eligibility that controls. Because the Petitioner timely filed, the Respondent's revocation cannot stand on appeal when eligibility is conceded. The purpose of the statute is to revoke ineligible homesteads. Having proved he is eligible and that the subject property is his principal place of residence, the homestead deduction must be reinstated.

Conclusion

15. The Board finds for the Petitioner.

Final Determination

In accordance with these findings and conclusions, the Petitioner is entitled to a homestead deduction for the 2017 assessment year.

ISSUED: March 18, 2019

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>